

HB 310 – WRONGFUL BIRTH

EXHIBIT 4
DATE 2/11/13
HB 310

1. While lawsuits for wrongful birth/wrongful life are relatively rare, they are very complicated requiring an extraordinary amount of time for the discovery process and involving numerous expert opinions on both sides. Hence, these types of cases are very expensive to prosecute and defend.
2. Verdicts in such cases can vary widely. Pennsylvania had a \$57 million verdict. California, New Jersey, Florida and Texas have had verdicts from \$18 million to \$29 million. What impact would such a verdict in Montana do to the cost of delivering obstetrical care, and health care in general, in the state?
3. The average cost of a normal delivery at Billings Clinic currently, including all prenatal care including lab tests and ultrasounds, is over \$12,000. If providers need to perform prenatal testing on all patients to include testing for all possible genetic defects the cost of a normal delivery would double. This would produce a cost of about \$25,000 for a normal delivery.
4. There were 12,039 births to Montana residents in 2011. Even using a conservative figure of \$10,000 in additional cost per delivery for increased prenatal testing, not having legislation disallowing wrongful birth/wrongful life claims could produce an annual increase of over \$120 million to the cost of health care in Montana.
5. Using data from the most recent Health Tracking Physician Survey, over 60% of physicians admit they order some tests or consultations simply to avoid the possibility of a malpractice claim. Now that Montana has a wrongful birth claim in litigation, would it not be a prudent reaction for obstetric providers in the state to order all prenatal testing available in order to avoid a potential wrongful birth claim? That is why we need HB 310 passed into law.
6. No lab test is 100% accurate.
7. Obstetric providers can currently insure against payments for alleged malpractice, but will they be able to afford or even find coverage in the future without legislation to disallow claims for wrongful birth? It is difficult enough currently to recruit obstetricians to Montana.
8. Providers cannot insure against emotional, reputational and work-related costs of litigation in any medical negligent claim; and such emotional distress would only be compounded many times over in a claim involving wrongful birth.